

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

FILED
U.S. DISTRICT COURT
DISTRICT OF NEBRASKA
2009 APR 23 PM 4:35
OFFICE OF THE CLERK

UNITED STATES OF AMERICA,)	4:07CR3005
)	
Plaintiff,)	ANSWER TO
v.)	JURY'S FIRST
)	SET OF QUESTIONS
RICHARD FLEMING,)	
)	
Defendant.)	

The jury asked at 1:46 p.m.: "(1) What is reasonable doubt or difference between reasonable doubt and beyond a shadow of a doubt? (2) Can we agree on some counts 11-13 but not on counts 1-10? (3) If deadlock, how long do we need to deliberate?"

JUDGE'S RESPONSE

Your first question was: "What is reasonable doubt or difference between reasonable doubt and beyond a shadow of a doubt?" The answer to your first question is found in Instruction No. 7. Please read it again.

Your second question was: "Can we agree on some counts 11-13 but not on counts 1-10?" You should try to reach agreement on all counts. Each of you must make your own conscientious decision, but only after you have considered all the evidence, discussed it fully with your fellow jurors, and listened to the views of your fellow jurors. Do not be afraid to change your opinions if the discussion persuades you that you should. But do not come to a decision simply because other jurors think it is right, or simply to reach a verdict.

If you reach agreement on some counts but cannot reach agreement on all counts, and you are hopelessly deadlocked, your foreperson should advise me in a written note as follows:

“We have reached agreement on some but not all counts. We are hopelessly deadlocked on the counts for which no agreement has been reached.” The note should be signed and dated by the foreperson and given to the court clerk.

If I receive such a note, I will give you further instructions.

Your third question was: “If deadlock, how long do we need to deliberate?” You should deliberate until I instruct you otherwise. See my answer to your second question.

DATED Thursday, April 23, 2009 at 2:17 p.m.

BY THE COURT:

s/ Richard G. Kopf
United States District Judge